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8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 ANGEL FRALEY; PAUL WANG; SUSAN
13 MAINZER; JAMES H. DUVAL, a minor, by
14 and through JAMES DUVAL, as Guardian ad
15 Litem; and WILLIAM TAIT, a minor, by and
16 through RUSSELL TAIT, as Guardian ad
17 Litem; individually and on behalf of all others
18 similarly situated,

19 Plaintiffs,

20 v.

21 FACEBOOK, INC., a corporation; and
22 DOES 1-100,

23 Defendant.

Case No. CV-11-01726 RS

**STIPULATION AND ~~PROPOSED~~ ORDER
TO DISTRIBUTE DECLINED *CY PRES*
FUNDS TO OTHER *CY PRES* RECIPIENTS
*PRO RATA***

Judge: Hon. Richard Seeborg

Pursuant to Civil Local Rule 6-2, this Stipulation is entered into by and between Plaintiffs and Defendant Facebook, Inc. (“Facebook” and collectively with Plaintiffs, the “Parties”) by and through their respective counsel:

WHEREAS, on August 26, 2013, the Court granted Plaintiffs’ Motion for Final Approval of Settlement Agreement (Dkt. 359) (“Final Approval Order”), granting final approval to the settlement of this action on the terms set forth in the Amended Settlement Agreement and Release (Dkt. 235-1) (“Settlement Agreement”);

WHEREAS, on September 19, 2013, the Court entered Final Judgment in this action (Dkt. 368) (“Final Judgment”);

WHEREAS, all appeals of the Court’s Final Approval Order and/or Final Judgment have now been resolved;

WHEREAS, Section 2.4(a) of the Settlement Agreement provides that any portion of the Net Settlement Fund to be allocated to *Cy Pres* Recipients (as such terms are defined in the Settlement Agreement) shall be allocated according to the following percentages:

Recipient	Allocated Percentage
Center for Democracy and Technology	10%
Electronic Frontier Foundation	10%
MacArthur Foundation	10%
Joan Ganz Cooney Center	10%
Berkman Center for Internet and Society (Harvard Law School)	6%
Information Law Institute (NYU Law School)	6%
Berkeley Center for Law and Technology (Berkeley Law School)	6%
Center for Internet and Society (Stanford Law School)	6%
High Tech Law Institute (Santa Clara University School of Law)	6%
Campaign for Commercial-Free Childhood	6%
Consumers Federation of America	6%
Consumer Privacy Rights Fund	6%
ConnectSafely.org	6%
WiredSafety.org	6%
	100%

WHEREAS, the MacArthur Foundation and Campaign for Commercial-Free Childhood have stated that they will refuse any distribution of funds from the Net Settlement Fund (Decl. of Matthew D. Brown, filed herewith, ¶¶ 2-3);

WHEREAS, the Settlement Administrator (the Garden City Group, Inc.) is currently administering the payments required by the Settlement Agreement in accordance with the terms of the Settlement Agreement and is to make payments to the *Cy Pres* Recipients between March 17, 2017 and April 1, 2017;

WHEREAS, the Parties agree that the funds allocated to the MacArthur Foundation and Campaign for Commercial Free Childhood should thus be allocated *pro rata* to the other *Cy Pres* Recipients; and

WHEREAS, the Final Judgment directs the Parties to perform the Settlement Agreement in accordance with, *inter alia*, its terms, the Final Approval Order, and any “other subsequent order of the Court” and provides that the Court “retains continuing jurisdiction over the implementation, administration, and enforcement of th[e] Final Judgment, the Settlement Agreement, and all matters ancillary thereto” (Final Judgment ¶¶ 13-14);

NOW, THEREFORE, the Parties hereby stipulate and agree as follows:

1. Section 2.4(a) of the Settlement Agreement is revised to allocate the shares accorded to the MacArthur Foundation and Campaign for Commercial-Free Childhood *pro rata* to the other *Cy Pres* Recipients (as such term is defined in the Settlement Agreement), resulting in the following allocation among the *Cy Pres* Recipients:

Recipient	Reallocated Percentage ¹
Center for Democracy and Technology	11.9048%
Electronic Frontier Foundation	11.9048%
MacArthur Foundation	0%
Joan Ganz Cooney Center	11.9048%
Berkman Center for Internet and Society (Harvard Law School)	7.1429%
Information Law Institute (NYU Law School)	7.1429%
Berkeley Center for Law and Technology (Berkeley Law School)	7.1429%
Center for Internet and Society (Stanford Law School)	7.1429%
High Tech Law Institute (Santa Clara University School of Law)	7.1429%
Campaign for Commercial-Free Childhood	0%
Consumers Federation of America	7.1429%
Consumer Privacy Rights Fund	7.1429%
ConnectSafely.org	7.1429%

¹ These numbers have been rounded to 4 decimals for inclusion in this table.

1	WiredSafety.org	7.1429%
2		100.00%

3
4 **IT IS SO STIPULATED.**

5 Dated: February 15, 2017

COOLEY LLP

6
7 /s/ Matthew D. Brown

Matthew D. Brown

8 Attorneys for Defendant FACEBOOK, INC.

9
10 Dated: February 15, 2017

THE ARNS LAW FIRM

11
12 /s/ Robert S. Arns

Robert S. Arns

13 Attorneys for Plaintiffs

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15 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

16
17 Dated: February 16, 2017

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Hon. Richard Seeborg